

AMENDED IN ASSEMBLY MAY 11, 2010

AMENDED IN ASSEMBLY APRIL 28, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2743

Introduced by Assembly Member Nava

February 19, 2010

An act to add Section 1942.7 to the Civil Code, relating to rental property.

LEGISLATIVE COUNSEL'S DIGEST

AB 2743, as amended, Nava. Real property: rentals: animals.

Existing law regulates the terms and conditions of residential tenancies and governs the obligations of tenants and landlords under a lease or tenancy.

This bill would prohibit a landlord, that allows a tenant to have an animal on the premises, from advertising or establishing rental policies in a manner that requires a tenant or a potential tenant with an animal to have that animal declawed or devocalized, for nontherapeutic purposes, as a condition of occupancy. This bill would impose a civil penalty, not to exceed \$1,000, for each violation that does not result in the declawing or devocalization of an animal. This bill would also impose a civil penalty, not to exceed \$2,500, for each animal that is declawed or devocalized in violation of this prohibition, to be paid to the owner or owners of an animal that is declawed or devocalized in violation of these prohibitions.

This bill would additionally authorize specified charitable organizations to enforce these prohibitions ~~and would impose a civil~~

penalty, not to exceed \$1,000, for each violation that does not result in the declawing or devocalization of an animal, and a civil penalty, not to exceed \$2,500, for each animal that is declawed or devocalized in violation of these prohibitions, to be paid to the charitable organization.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares:

2 (a) ~~Declawing cats and other animals, which is primarily done~~
3 ~~for the purpose of limiting an animal's ability to scratch people~~
4 ~~and furnishings, is cruel and unnecessary.~~

5 (b) ~~Scientific studies have shown that declawed cats have a~~
6 ~~tendency to bite more often than cats that have not been declawed,~~
7 ~~and that declawed cats are also more likely to urinate and defecate~~
8 ~~outside of their litter boxes than cats that have not been declawed,~~
9 ~~an outcome that does not support the intended purpose of declawing~~
10 ~~an animal in order to protect people and furnishings.~~

11 (c) ~~Therefore, it follows that declawing cats makes an animal~~
12 ~~more likely to lose its home because of the unintended behavioral~~
13 ~~problems that are often exhibited in animals that have been~~
14 ~~declawed.~~

15 (a) *Declawing and devocalizing are veterinary surgical*
16 *procedures that have irreversible effects on the animals that*
17 *undergo these procedures.*

18 (b) *Declawing and devocalizing may have the unintended*
19 *consequence of creating potential public health and safety*
20 *concerns; for example, the possible safety risk to law enforcement*
21 *officers posed by a devocalized attack dog present on property*
22 *that law enforcement officers have legal cause to enter to*
23 *investigate illegal activity.*

24 (c) *The permanence of these surgical procedures contrasts with*
25 *the temporary nature of the occupancy of real property owned by*
26 *another, which generally lasts only for a fixed term and may be*
27 *terminated upon notice by one of the parties.*

28 (d) *Therefore, it is the intent of the Legislature to restrict the*
29 *ability of a person or corporation to impose conditions on*
30 *occupancy of property that are based on declawing or devocalizing*
31 *an animal that is allowed on the premises.*

SEC. 2. Section 1942.7 is added to the Civil Code, to read:

~~1942.7. (a) No person may require any tenant or occupant of real property to declaw or devocalize any animal allowed on the premises.~~

~~(b)~~

1942.7. (a) No person or corporation that occupies, owns, manages, or provides services in connection with any real property, including the individual's or corporation's agents or successors-in-interest, *and that allows an animal on the premises*, may do any of the following:

(1) Advertise, through any means, the availability of real property for occupancy in a manner designed to discourage application for occupancy of that real property because the applicant's animal has not been ~~devocalized or declawed~~ *declawed or devocalized*.

(2) Refuse to allow the occupancy of any real property, refuse to negotiate the occupancy of any real property, or to otherwise make unavailable or deny to any other person the occupancy of any real property because of that person's refusal to ~~devocalize or declaw~~ *declaw or devocalize* any animal.

~~(3) Require another person to devocalize or to declaw any animal as a condition of applying for occupancy, the right of occupancy, or continued occupancy of any real property.~~

~~(3) Require any tenant or occupant of real property to declaw or devocalize any animal allowed on the premises.~~

(4) Give preferential treatment in the terms of the right of occupancy or the provision of services to another person because that person owns an animal that has been ~~devocalized or declawed~~ *declawed or devocalized*.

(5) Discriminate in the terms of occupancy or the provision of services against another person because that person owns an animal that has not been ~~devocalized or declawed~~ *declawed or devocalized*.

~~(e)~~

(b) Nothing in this section shall prevent the inclusion, in an occupancy agreement, of a provision that a present or potential occupant may not declaw or devocalize any animal that will be allowed on the premises.

~~(d)~~

(c) For purposes of this section, the following definitions apply:

(1) "Animal" means any mammal, bird, reptile, or amphibian.

(2) “Application for occupancy” means all phases of the process of applying for the right to occupy real property, including, but not limited to, filling out applications, interviewing, and submitting references.

(3) “Claw” means a hardened keratinized modification of the epidermis, or a hardened keratinized growth, that extends from the end of the digits of certain mammals, birds, reptiles, and amphibians, often commonly referred to as a “claw,” “talon,” or “nail.”

(4) “Declawing” means performing, procuring, or arranging for any nontherapeutic surgical procedure, such as an onychectomy, tendonectomy, or phalangectomy, to remove or to prevent the normal function of an animal’s claw or claws.

(5) “Devocalizing” means performing, procuring, or arranging for any nontherapeutic surgical procedure such as a vocal cordectomy, to remove an animal’s vocal cords or to prevent the normal function of an animal’s vocal cords.

(6) “Nontherapeutic” refers to a surgical procedure that is performed without there being a medical necessity to address the medical condition of an animal, such as an existing or recurring illness, infection, disease, injury, or abnormal condition that compromises the animal’s health. “Nontherapeutic” procedures include those *procedures* performed for cosmetic or aesthetic reasons, or reasons of perceived need or convenience in keeping or handling the animal.

(7) “Owner” means any person who has any right, title, or interest in real property.

~~(e) (1) In addition to any other penalty allowed by law, each violation of this section that does not result in the declawing or devocalizing of an animal shall result in a civil penalty of not more than one thousand dollars (\$1,000).~~

~~(2) (A) In addition to any other penalty allowed by law, each violation of this section that results in the declawing or devocalizing of an animal shall result in a civil penalty of not more than two thousand five hundred dollars (\$2,500) to be paid to the occupant or occupants whose animal was declawed or devocalized in violation of this section.~~

~~(B) If the owner of the animal is different from the occupant for reasons such as, but not limited to, an occupant taking care of an animal owned by another, a civil penalty of not more than two~~

1 thousand five hundred dollars (\$2,500) shall be paid to the owner
2 or owners of an animal who has been declawed or devocalized in
3 violation of this section.

4 (3) ~~In addition to occupants and other owners of animals that~~
5 ~~have been declawed or devocalized in violation of this section, an~~
6 ~~organization formed in compliance with Section 501(e) of the~~
7 ~~Internal Revenue Code, that is dedicated to the protection of~~
8 ~~animals has standing to enforce this section. In such a case, a civil~~
9 ~~penalty of not more than one thousand dollars (\$1,000) shall be~~
10 ~~paid to the organization for each violation of this section that does~~
11 ~~not result in the declawing or devocalization of an animal and two~~
12 ~~thousand five hundred dollars (\$2,500) shall be paid to the~~
13 ~~organization for each violation of this section that results in the~~
14 ~~declawing or devocalizing of an animal.~~

15 (d) (1) *In addition to any person harmed by a violation of this*
16 *section, an organization, formed in compliance with Section*
17 *501(c)(3) of the Internal Revenue Code, that is dedicated to the*
18 *protection of animals has standing to enforce this section.*

19 (2) *In addition to any other penalty allowed by law, a violation*
20 *of this section that results in the declawing or devocalizing of an*
21 *animal shall result in a civil penalty of not more than two thousand*
22 *five hundred dollars (\$2,500), per animal, to be paid to the person*
23 *whose animal was declawed or devocalized in violation of this*
24 *section or to an organization, formed in compliance with Section*
25 *501(c)(3) of the Internal Revenue Code, that is authorized to bring*
26 *an action under this section.*

27 (3) *In addition to any other penalty allowed by law, a violation*
28 *of this section that does not result in the declawing or devocalizing*
29 *of an animal shall result in a civil penalty of not more than one*
30 *thousand dollars (\$1,000) to be paid to the plaintiff.*